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September 20, 2004

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, TW A325
Washington, D.C. 20554

**Re: Motion to Strike Supplement
MB Docket No. 03-120
RM-10591
FM Broadcast Stations
Lake City and Chattanooga, TN**

RECEIVED

SEP 20 2004

Federal Communications Commission
Office of Secretary

Dear Ms. Dortch:

Transmitted herewith on behalf of Ronald C. Meredith is an original and four copies of his Motion to Strike Supplement in the above-referenced proceeding.

Should any questions arise concerning this matter, please contact the undersigned.

Respectfully submitted,


Howard J. Barr

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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SEP 20 2004

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Lake City and Chattanooga, Tennessee))

Federal Communications Commission
Office of Secretary
MB Docket No. 03-120
RM - 10591

To: Assistant Chief, Audio Division
Media Bureau

MOTION TO STRIKE SUPPLEMENT

Ronald C. Meredith ("Petitioner"), by counsel, hereby moves to strike the August 19, 2004, Supplement filed by JBD Incorporated ("JBD") in the above-captioned proceeding ("the Supplement"). The pleading cycle in this matter closed on January 27, 2004.¹ Now, JBD comes before the Commission some six and one half months later seeking to bolster its Counterproposal. The Supplement, however, is procedurally and substantively deficient and should therefore be dismissed. The following is submitted in support thereof:

1. JBD's Supplement purports to have been filed solely to direct the staff's attention to the Commission's decision in *Banks, Redmond, Sunriver, Corvallis and The Dalles, Oregon, Memorandum Opinion and Order*, 19 FCC Rcd 10068 (2004). That decision, however, was released on May 27, 2004. To the extent it may be necessary to bring this decision to the staff's attention, JBD fails to explain the long delay between its release and the filing of its Supplement. The Supplement is untimely in extremis.

¹ See *Public Notice*, Report No. 2643, released January 12, 2004 (establishing a 15 day reply comment deadline on JBD's Halls Crossroads counterproposal (the "Counterproposal"). The filing period was automatically extended by one day due to the Commission's early closure on January 27, 2004.

2. More importantly though, no need exists to alert the Commission to one of its own cases, which is all the Motion to Accept Supplement **purports** to do. See JBD's August 19, 2004 Motion to Accept Supplement. The Supplement, however, actually goes well beyond merely appraising the Commission of its own recent decision. Instead, the Supplement goes on at length to reply to Petitioner's Reply Comments demonstrating that Halls Crossroads is not an independent community under the *Tuck* criteria.²

JBD, however, does not supply any information that could not have been supplied earlier in this proceeding. The Supplement is therefore nothing less than a thinly veiled effort to unfairly bolster JBD's contention that Halls Crossroads is entitled to a first local service preference. For this reason alone the Supplement should be dismissed without consideration, as it provides no basis upon which the Commission may evaluate its applicability.

3. The Commission is disinclined to consider unauthorized, supplemental post-pleading cycle submissions, even where they contain allegations of specific relevant facts. see Llerandi v. FCC, 863 F2d 79, 87 (D.C. Cir. 1988), which the instant Supplement does not. Accordingly, the

² *Faye and Richard Tuck*, 3 FCC 5374 (1988).

Commission should strike, without consideration, the August 19, 2004, Supplement filed by JBD
in this proceeding.

Respectfully submitted

RONALD C. MEREDITH

By: 

Vincent A Pepper
Howard J. Barr

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September 20, 2004

CERTIFICATE OF SERVICE

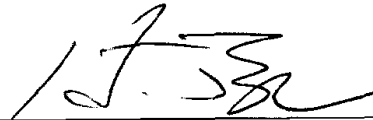
I, Howard J. Barr, an attorney at the law firm of Womble Carlyle Sandridge & Rice, PLLC, do hereby certify that true copies of the foregoing "Motion to Strike Supplement" were mailed, postage prepaid on this 20th day of September, 2004, to the following:

*Deborah A. Dupont
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*Via Hand Delivery